



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/153599

PRELIMINARY RECITALS

Pursuant to a petition filed November 21, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on January 21, 2014, at Sheboygan, Wisconsin.

The issue for determination is whether the Sheboygan County Department of Human Services (the agency) correctly terminated the Petitioner's FoodShare benefits, effective December 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Kris Schmidt, Supervisor of the Economic Support Unit
Sheboygan County Department of Human Services
3620 Wilgus Ave.
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. On November 11, 2013, the agency sent Petitioner a notice indicating that his FoodShare benefits would be ending on December 1, 2013, because his household income was over the program limit. (Exhibit 2)

3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 21, 2013.
4. During the time in question Petitioner received Unemployment Insurance Benefits (UIB) in the amount of \$363.00 a week. Petitioner's wife was also receiving UIB benefits in the amount of \$363.00 per week. So their monthly income worked out to be:

\$363 x 2 x 4.3 average weeks per month: \$3121.80

(Testimony of Petitioner; Exhibit 3)

5. Petitioner has an assistance group size of 3 and no one is elderly (over age 60), blind or disabled (receiving SSDI). (Testimony of Petitioner)
6. Petitioner is responsible for paying utilities, a mortgage of \$898.36 per month, homeowner's insurance of \$81.71 per month, and property taxes in the amount of \$260.00 per month. (Testimony of Petitioner; Exhibit 2)

DISCUSSION

To receive FoodShare benefits a household must have gross income at or below 200% of the Federal Poverty Level (FPL), though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* Once a household passes the gross income limit, the household is tested to see if its income is below certain net income limits. *Id.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.*

Eligibility determinations are based upon prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

200% of the FPL for a household of 3 is \$3256.00. Petitioner's gross household income of \$3121.80 is below the 200% FPL limit. Thus, Petitioner's household must be tested to see if it meets the net income limit.

Once a household passes the gross income test the following deductions are applied in determining the net income / FoodShare allotment. (*FSH, at § 4.6*):

- (1) a standard deduction – This is \$152 per month for a household of 1-3 people. *7 CFR § 273.9(d)(1)*;
- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) excess shelter and utility expenses - this deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).*

Effective October 1, 2013, the Heating and Standard Utility Deduction was \$450 per month.

There is a cap of \$478.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

The term ‘disabled’ is a term with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

FSH, §3.8.1.1.

Applying the applicable deductions to Petitioner’s income we have the following net income calculation, effective December 1, 2013:

Gross Income	\$3121.80	Mortgage	\$898.36
No Earned Income Deduction		Insurance	+\$81.71
Standard Deduction	-\$152.00	Property Tax	+\$260.00
No Medical Expenses exceeding \$35		HSU	+\$450.00
Dependent Care Expenses		-50% net income	-\$1484.90
		<u>before shelter deduction</u>	
Net Income before shelter deduction	\$2969.80	Excess Shelter Expense: \$205.17	
Excess Shelter Expense	- \$205.17		
Net Income	\$2764.63		

A household of three, with a net income of \$2764.63 is not eligible to receive FoodShare benefits. The net income limit is \$1628. FSH §8.1.2.

Petitioner asserts that his family really needed and needs FoodShare benefits because they were facing some extreme financial hardship. Regrettably, neither the State nor Federal regulations allow consideration of personal circumstances in determining FoodShare eligibility. The determination is based solely upon the income determinations described above.

The Petitioner further indicated that his income situation has since changed. If Petitioner’s household income has decreased, the Petitioner can report this to the agency and reapply for benefits.

CONCLUSIONS OF LAW

The agency correctly terminated Petitioner’s FoodShare benefits effective December 1, 2013.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 22nd day of January, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 22, 2014.

Sheboygan County Department of Human Services
Division of Health Care Access and Accountability